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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 CHRISTIAN COX, a married man, and
12 PACIFIC COAST FIBER FUELS,
13 LLC, a Washington limited liability
14 company; and JOSEPH A. MAYO IV,
15 a married man,

16 Plaintiff,

17 vs.

18 ALLIANT INSURANCE SERVICES,
19 INC., d/b/a MOLONEY + O'NEILL, a
20 Delaware corporation; DAN ROMAIN
21 and JANE DOE ROMAIN, a marital
22 community; FARMIN ROTHROCK &
23 PARROTT, INC., a Washington
24 corporation; and KELLY EGAN and
25 JANE DOE EGAN, a marital
community,

Defendants.

Case No.: 2:16-cv-00362-SAB

PLAINTIFFS' MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO STAY LITIGATION

Date: December 15, 2016

Time: 1:30pm

ORAL Argument REQUESTED

26 I. INTRODUCTION

27 Plaintiffs Christian Cox, Pacific Coast Fiber Fuels, LLC, and Joseph Mayo
28 IV, through their attorneys of record, Roberts Freebourn, oppose Defendants'

1 Motion to Stay this Litigation. Defendants' hope that their frivolous Motion to
2 Disqualify Attorney Kevin Roberts will somehow succeed does not justify
3 bringing this litigation to a halt. Defendants present no factual or legal basis to
4 delay the just, speedy, and inexpensive resolution of this litigation, and their
5 Motion to Stay should be denied.
6

7 Defendants' Motion to Stay is based on their overly optimistic assumption
8 that they will prevail on their Motion to Disqualify Roberts. See ECF 14.
9 Specifically, Defendants argue without support that they "brought (their) motion to
10 disqualify Plaintiffs' counsel based on Attorney Roberts' prior representation of
11 Moloney + O'Neill in matters directly related to the allegations asserted against
12 Defendant Alliant/Moloney + O'Neill." This is an untrue statement: Roberts and
13 Dunn & Black represented Christian Cox and Moloney, O'Neill, Corkery & Jones,
14 Inc. ("MOCJ") in adversarial negotiations against Defendant Alliant Insurance
15 Services, Inc.. Defendants' mischaracterization of Roberts' and Dunn & Black's
16 previous representation does not provide a basis for an order staying this litigation.
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20 **II. ARGUMENT**

21 **A. A Stay of Proceedings is not Warranted Under Rule 1 of the Federal** 22 **Rules of Civil Procedure.**

23 Defendants' base their Motion to Stay on Fed. R. Civ. Pro. 1 which directs
24 the Court to administer Rules of Civil Procedures "to secure the just, speedy, and
25

1 inexpensive determination of every action and proceeding.” Defendants fail to
2 provide any evidence that delaying this action would secure the just, speedy, and
3 inexpensive determination of this action. Rather, Defendants’ motion does the
4 exact opposite: it asks the Court to bring this litigation to a halt based solely on
5 their hoping and wishing that their Motion to Disqualify will be successful. Thus
6 Fed. R. Civ. P. 1 does not support a stay of these proceedings.
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8 **B. Defendants Failed To Meet Their Burden To Make Out A Clear Case of**
9 **Hardship That would Result From Moving Forward.**

10 When considering a motion to stay, the Court should weigh competing
11 interests and maintain an even balance. Landis v. N. Am. Co., 299 U.S. 248, 255
12 (1936), *citing* Kansas City Southern R. Co. v. United States, 282 U.S. 760, 763
13 (1931); Enelow v. New York Life Ins. Co., 293 U.S. 379, 382 (1935). The party
14 moving for a stay “*must make out a clear case of hardship or inequity in being*
15 *required to go forward, if there is even a fair possibility that the stay for which he*
16 *prays will work damage to someone else.*” Landis, 299 U.S. at 255. The burden is
17 upon the moving party to show good cause to issue a stay by demonstrating harm
18 or prejudice that will result from the discovery. Rivera v. NIBCO, Inc., 364 F.3d
19 1057, 1063 (9th Cir.2004).
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23 Defendants have failed to make out a clear case of hardship or inequity that
24 would result from moving forward with this litigation under the timelines specified
25 in the Federal Rules of Civil Procedure. Rather, they make vague, unsupported

1 claims of efficiency and speculative costs. See ECF 14, p. 5. These vague claims
2 do not justify a stay of proceedings, and their motion should be denied.

3 Defendants cite three District Court opinions from other districts, two of
4 which are not reported. See ECF 14, p. 5. These cases are factually dissimilar to
5 the facts present in this action. For example, in Finn v. Harbor Metal Treating Inc.,
6 the stay was granted after the attorney was disqualified. The decision to issue a
7 stay is based on the specific facts of the case. See Landis, 299 U.S. at 255.
8 Defendants have failed to meet their burden to show good cause to issue an order
9 staying these proceedings, and their Motion should be denied.
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12 **C. Plaintiffs Will Be Prejudiced If These Proceedings Are Halted.**

13 Alliant wrongfully terminated Plaintiff Cox's employment, yet Alliant is
14 also alleging that Plaintiff Cox is bound by restrictive covenants that are
15 preventing Cox from pursuing his livelihood as an insurance agent. **Dec. of**
16 **Freebourn, Ex. A.** Cox has filed for a Declaratory ruling from the Court that
17 those restrictive covenants are void. See ECF 22. Cox needs to commence
18 discovery as soon as possible to prevail on his Declaratory action. A stay of
19 proceedings would prejudice him in that it further delays his ability to earn a living
20 as an insurance agent.
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III. CONCLUSION

Defendants have failed to meet their burden to demonstrate good cause to stay the proceedings in this action and to deprive Plaintiffs of a just, speedy, and inexpensive determination of this action. Plaintiffs therefore request that the Court deny Defendants' Motion to Stay.

We do not oppose a stay related to Defendants filing Answers or CR 12 Motions. However, we request that the procedural steps for discovery not be delayed. Accordingly, we request that the Defendants be required to participate in a FRCP 26 conference and that the scheduling conference be held to ensure that discovery is not delayed.

DATED this 16th day of November, 2016.

ROBERTS | FREEBOURN, PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of November, 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send notification of such filings to the following:

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